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FM AMEMBASSY LILONGWE
TO RUEHC/SECSTATE WASHDC 3082
INFO RUCNSAD/SOUTHERN AFRICAN DEVELOPMENT COMMUNITY
RUEATRS/DEPT OF TREASURY WASHDC 0457
RUEAWJA/DEPT OF JUSTICE WASHDC
RUEHLMC/MCC WASHDC
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RUEKDIA/DIA WASHDC
RHMFISS/HQ USEUCOM VAIHINGEN GE

UNCLAS LILONGWE 000654

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SENSITIVE
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E.O. 12958: N/A
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SUBJECT: FORMER PRESIDENT'S CORRUPTION CASE DISCONTINUED

REF: A) LILONGWE 651 B) LILONGWE 643

11. (SBU) Summary: Amid turmoil caused by the suspension of the Anti-Corruption Bureau Director, the GOM has decided to halt indefinitely the corruption case against former President and United Democratic Front Chair Bakili Muluzi. The move, widely viewed as quid pro quo for the opposition-controlled Parliament's passage of the national budget, is a significant setback to President Mutharika's "zero-tolerance" campaign against corruption. End Summary.

12. (SBU) The Director of Public Prosecutions filed a motion on July 31 to discontinue Muluzi's case, citing the lack of a prosecutor as the reason for discontinuation (ACB Director Gustave Kaliwo had planned to prosecute the case personally). ACB staff advocated for the case to be adjourned for a set period in order to find a new prosecutor, but the Director of Public Prosecutions and the Minister of Justice decided to discontinue the case altogether. The discontinuation does not prevent a future ACB Director from reviving the case at some point. Kaliwo, meanwhile, has been asked to resign.

13. (SBU) As previously reported, opposition MPs told poloff on July 28 that Muluzi's case would be dropped in order to ensure the passage of the budget (reftel B). In the short run this seems to have paid off for the government, as Parliament is on track to fully approve the budget by August 2.

14. (SBU) Muluzi is scheduled to leave later this month to take up a fellowship at the African Presidential Archives and Research Center at Boston University, where he will remain for the academic year. It is unlikely that ACB would re-start the case while he is out of the country.

Comment

15. (SBU) The Mutharika government continues its steady effort to make working level reforms to prevent future incidents of corruption. The discontinuance of the Muluzi case, however, marks a significant symbolic setback for Malawi's anti-corruption efforts. The case could still potentially be pushed forward in the future, but this incident shows that Mutharika is willing to use the anti-corruption campaign as a political tool when he deems necessary--in this case trading charges against Muluzi for passage of the budget. As one official at the ACB cynically put it to us, "the zero tolerance campaign is actually 'some tolerance'."

16. (SBU) This move casts doubt on the effectiveness of the ACB and President Mutharika's commitment to the anti-corruption campaign in general. Kaliwo enjoyed the confidence of donors and was perceived to have performed relatively well in his position, though the ACB has been criticized for its small number of successful prosecutions. It will be difficult for the GOM to replace Kaliwo with someone who can inspire equal confidence. Now that Mutharika has demonstrated his willingness to limit the ACB's independence, the next director will naturally be very cautious in handling the most politically sensitive cases. A weaker ACB will certainly be a less effective contributor to President Mutharika's anti-corruption campaign.

GILMOUR